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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,648	02/12/2007	Masaru Tanaka	4252-0119PUS1	5783
2292 7590 02/04/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
IWAMAYE, ANDREW MICHAEL				
ART UNIT		PAPER NUMBER		
3774				
NOTIFICATION DATE		DELIVERY MODE		
02/04/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

**Application No.**

10/580,648

**Applicant(s)**

TANAKA ET AL.

**Examiner**

ANDREW IWAMAYE

**Art Unit**

3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 8/25/2006 and 5/25/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 11-15 in the reply filed on 1/12/2009 is acknowledged.

***Information Disclosure Statement***

2. The information disclosure statement filed 5/25/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

No copies of the non-patent literature documents by Nishikawa et al and Nishi et al were received.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 11-15** are rejected under 35 U.S.C. 102(b) as being anticipated by Shimomura et al (JP 2002-347107 A).

Regarding **claim 11**, Shimomura et al (Shimomura) teaches a Petri dish (i.e. a **medical instrument**) **comprising glass (i.e. a medical instrument substrate) and a film**. The film is taught to **include a chloroform solution (i.e. a resin) and have a porous structure formed at least on its surface, the surface of the medical instrument being entirely or partially covered with the film** (see Example 1, [0032]-[0035]).

Regarding **claim 12**, Shimomura further teaches the porous structure of the film to be a honeycomb structure ([0014]).

Regarding **claim 13**, Shimomura further teaches the porous structure of the film to have an average pore size of 0.1 to 100 $\mu$ m ([0014]).

Regarding **claim 14**, Shimomura further illustrate the porous structure of the film to be substantially uniform (i.e. has a coefficient of variation in pore size of 30% or less) (see Figures).

Regarding **claim 15**, Shimomura further teaches the film to be a film or a stretched film obtained by casting a resin organic solvent solution onto a substrate, causing the organic solvent to be evaporated and condensed on the surface of the cast solution, and evaporating minute waterdrops produced by the condensation ([0010] to [0036]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW IWAMAYE whose telephone number is (571)270-7036. The examiner can normally be reached on Monday-Friday 7:30AM-5:00PM, with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on (571)272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. I./  
Examiner, Art Unit 3774  
1/26/2009

/DAVID ISABELLA/  
Supervisory Patent Examiner, Art Unit 3774

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Art Unit: 3774

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